

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

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GAVINO MR. RIVAS

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Plaintiff,

§

§

v.

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CIVIL ACTION NO. 4:18-CV-01465

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CITY OF LEAGUE CITY

§

§

Defendant.

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**PARTIES' AGREED SUMMARY OF THE CASE**

This is an employment discrimination case under the Uniformed Services Employment and Reemployment Rights Act ("USERRA"). Plaintiff, Gavino Rivas is a former motorcycle law enforcement officer for City of League City's Police Department .

While working for the City, Plaintiff also served as a Captain in the United States Army Reserve. Plaintiff alleges that he deployed in 2012 and upon his return in 2014 from deployment he was subjected to unlawful discrimination and harassment by the City , including by his Supervisor, SGT Kevin Schroeder and that he was not properly reemployed by the City following his return from deployment pursuant to USERRA regulations. Plaintiff further alleges that his military status was a motivating factor in the adverse employment actions taken against him. Plaintiff alleges that the City crafted a pretext to investigate and terminate him. Plaintiff denies any allegation of dishonesty was a factor in his removal from the City.

Plaintiff contends that Defendant discriminated against him and terminated him based on his involvement in the Army Reserve under 38 U.S.C. § 4311; and by failing to follow USERRA's reemployment rights under 38 U.S.C. §§ 4312-13.

The City responds to Plaintiff's allegations as follows: Plaintiff's military status did not play any role in his work with or firing by the City, just as the military

service of dozens of League Police officers plays no role in their work for the City. After he returned from military service, the Plaintiff was returned to the same position he left, just as all other police officers who take leave for military service and as state civil service laws require. After Plaintiff returned to work at the police department as a motorcycle officer, the chief of the League City Police Department, Michael Kramm, independently determined Plaintiff was dishonest in the course of an investigation regarding Plaintiff's damage to city equipment and Plaintiff's dishonesty is the sole reason he was fired. In a thorough internal investigation Sergeant Kevin Schroeder, a veteran of the United States Marines, collected evidence and turned it over to Captain James Spencer at which point Captain Spencer interviewed Plaintiff and independently determined Plaintiff was lying. Captain Spencer reported his findings to Chief Kramm, a veteran of the U.S. Navy who, after his own investigation and invitation to the Plaintiff to add any additional information fired Plaintiff for dishonesty, because an officer who is found to be dishonest is not acceptable in law enforcement, in this police department or any other. Plaintiff appealed Chief Kramm's decision to fire Plaintiff to an independent hearing examiner, as Plaintiff was permitted under Texas civil service laws. After an arbitration hearing in which Plaintiff was represented by an attorney and had the opportunity to call and examine witnesses and present any other evidence he chose, the independent hearing examiner determined that Plaintiff had been dishonest, that under the circumstances of the Plaintiff's misconduct, Chief Kramm had no choice but to fire the Plaintiff, and the arbitrator upheld Chief Kramm's firing decision based solely on Plaintiff's dishonesty.

Respectfully submitted,

/s/ Sean Timmons

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Respectfully submitted,  
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